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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,246	08/05/2005	Guojun Dai	05788.0339-00000	8809
22852 7590 12/06/2007 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER BOLDA, ERIC L	
			ART UNIT 3663	PAPER NUMBER
			MAIL DATE 12/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/522,246

Applicant(s)

DAI ET AL.

Examiner

Eric Boldt

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29, 30, 33-40, 42, 43 and 60-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-30, 33-40, 42, 43, 60-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Oct. 12, 2007 has been entered.

### ***Allowable Subject Matter***

2. The indicated allowability of claim 32-33, (now amended so that their subject matter incorporated into claims 29, 39, 42, 43 and claims 60 and 67) is withdrawn upon further consideration. In particular, the ranges of metal oxide mole percentages of the glass disclosed by the Aitken reference appear to overlap with those claimed. Therefore, the claims are still rejected over the prior art.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 29, 39, 42, and 43, and claims 30, 33-38, 40 dependent on them are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claims 29 and 42, The claims recite "from 50% to 90% in mole percentage of TeO<sub>2</sub>". In the event 90% is chosen, there is only 10% mole

percentage of the glass composition left. There is then no possibility of satisfying the remainder of each claim, since there must be at least 10% of the first metal oxide, and at least 5% of a second different metal oxide. Similarly, in claims 39 and 43, if 95% TeO<sub>2</sub> is chosen, there is only 5% mole percentage of the glass composition left, so that there is no possibility of satisfying the remaining limitation, "from 10% to 25% of mole percentage of metal oxide..". Therefore, the claim limitations are inconsistent. The claims are interpreted as best understood by the examiner.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 29-30, 33-40, 42, 43, 60-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aitken (US Pat. No. 6,194,334) in view of Masuda (US Pat. No. 6,771,414).

Aitken discloses a tellurite glass to be used in optical communication components with a composition of 10-90% tellurite, at least 5% of the metal oxide WO<sub>3</sub> (4<sup>th</sup> col lines 31-42) and 0-30% a modifying oxide of Nb (4<sup>th</sup> col lines 54-56) (all quantities in molar percent). Alternatively, 0 to 30% mole of a modifying oxide may include Cd, Pb, Gd, Ti, Zr, Hf, Nb Ta, Bi, or Ba (4<sup>th</sup> col. lines 57-59). These ranges overlap at least in part with those claimed. The glass is appropriate for clad optical fiber production (4<sup>th</sup> col. lines 60-62). Aitken does not specifically disclose that the glass is part of an optical fiber in a Raman amplifier, and comprising at least one pump laser optical coupled to the optical fiber, the pump adapted to emitting pump radiation at a

wavelength. However, Masuda teaches in Fig. 6 a Raman amplifier comprising at least one optical fiber (1) and at least one pump (LDM-1) optically coupled to the optical fiber. The Raman amplifier is part of an optical telecommunication system, (2<sup>nd</sup> col. lines 27-30) and therefore inherently contains an optical fiber path for transmitting an optical signal. The optical fiber comprises a tellurite glass. The clauses "adapted for emitting a pump radiation" and "suitable for enhancing Raman effect" are essentially statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. It would have been obvious to one skilled in the art (e. g. an optical engineer) to produce the glass composition of Aitken, since it is a tellurite glass, in the optical fiber and Raman amplifier of Masuda.

With regard to claims 34 and 62, Masuda discloses that tellurite fiber further comprises alkaline metals such as Al (6<sup>th</sup> col. line 4).

Note that the citations made herein are done so for the convenience of the applicant; they are in no way intended to be limiting. The prior art should be considered in its entirety.

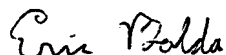
### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Jiang et al.

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric Bolda whose telephone number is 571-272-8104. The examiner can normally be reached on M-F from 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Jack Keith, can be reached on 571-272-6878. Please note the fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric Boldt